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Human rights questions: implementation of human rights instruments

Report of the Third Committee

Rapporteur: Ms. Oksana **Boiko** (Ukraine)

I. Introduction

1. At its 19th plenary meeting, on 20 September 2002, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-seventh session, under the item entitled "Human rights questions", the sub-item entitled "Implementation of human rights instruments" and to allocate it to the Third Committee.

2. The Third Committee held a general discussion on the sub-item at its 30th to 32nd meetings, on 30 and 31 October and 1 November 2002, and took up proposals relating to the sub-item at its 36th, 40th and 57th meetings, on 5, 7 and 21 November. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/57/SR.30-32, 36, 40 and 57).

3. For the documents before the Committee under this sub-item, see A/57/ 556.

4. At the 30th meeting, on 30 October, the Director of the New York Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/57/SR.30).

II. Consideration of proposals

A. Draft resolution A/C.3/57/L.30 and amendment contained in document A/C.3/57/L.39

5. At the 32nd meeting, on 1 November, the representative of Costa Rica, on behalf of Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso,

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Burundi, Cape Verde, Chile, the Comoros, the Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, El Salvador, Finland, France, the Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Italy, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, the Marshall Islands, Mexico, Monaco, Mongolia, Namibia, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Poland, Portugal, Romania, Saint Kitts and Nevis, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia, introduced a draft resolution entitled "Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (A/C.3/57/L.30). Subsequently, Angola, Dominica, Estonia, Mali, Mozambique, Peru, Samoa and Zambia joined in sponsoring the draft resolution and the Comoros withdrew as sponsor of the draft resolution.

6. At the 40th meeting, on 7 November, the Secretary of the Committee read out a statement by the Director of the Programme Planning and Budget Division of the Office of Programme Planning, Budget and Accounts in connection with the draft resolution (see A/C.3/57/SR.40).

7. At the same meeting, the representative of Japan made a statement in which he moved that action on the draft resolution be deferred for 24 hours; statements were then made by the representatives of Mexico, the United States of America, Norway and Costa Rica (see A/C.3/57/SR.40).

8. Also at the 40th meeting, the Committee rejected the motion to defer action by a recorded vote of 85 to 12, with 43 abstentions. The voting was as follows:

In favour:

China, India, Israel, Jamaica, Japan, Kazakhstan, Kuwait, Malaysia, Singapore, United States of America, Uzbekistan, Zimbabwe.

Against:

Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Germany, Greece, Guatemala, Hungary, Iceland, Indonesia, Ireland, Italy, Kenya, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Mexico, Monaco, Mozambique, Namibia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Kitts and Nevis, Samoa, San Marino, Slovakia, Slovenia, South Africa, Spain, Suriname, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Abstaining:

Albania, Algeria, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Bosnia and Herzegovina, Cambodia,

Cameroon, Cape Verde, Cuba, Egypt, Grenada, Malawi, Marshall Islands, Mauritania, Mauritius, Myanmar, Nepal, Nigeria, Pakistan, Papua New Guinea, Philippines, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Togo, Tunisia, Uganda, Ukraine, United Republic of Tanzania, Vanuatu, Viet Nam.

9. After the vote, a statement was made by the representative of Malaysia (see A/C.3/57/SR.40).

10. At the 36th meeting, on 5 November, the representative of the United States of America introduced an amendment (A/C.3/57/L.39) to draft resolution A/C.3/57/L.30, by which paragraph 1 of article 25 of the draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to draft resolution A/C.3/57/L.30 would be replaced by the following:

> "1. All expenses for the implementation of the present Protocol shall be borne exclusively by the States Parties. The States Parties alone shall also be responsible for reimbursement to the United Nations for any expenses incurred by the United Nations pursuant to paragraph 2 of this article, including use of its staff and facilities."

11. At the same meeting, statements were made by the representatives of Japan and Denmark, on behalf of the States Members of the United Nations that are members of the European Union (see A/C.3/57/SR.36).

12. At the 40th meeting, on 7 November, the representative of Costa Rica made a statement in which he requested a recorded vote on the amendment to the draft resolution.

13. At the same meeting, the Committee rejected the amendment contained in document A/C.3/57/L.39 by a recorded vote of 98 to 11, with 37 abstentions. The voting was as follows:

In favour:

Australia, India, Israel, Jamaica, Japan, Kazakhstan, Marshall Islands, Pakistan, Russian Federation, United States of America, Uzbekistan.

Against:

Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Bahamas, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Kenya, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Malawi, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Romania, Saint Kitts and Nevis, Samoa, San Marino, Senegal, Slovakia, Slovenia, South Africa, Spain, Suriname, Swaziland, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad

and Tobago, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Abstaining:

Albania, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Brunei Darussalam, Cambodia, Cameroon, China, Cuba, Egypt, Guyana, Haiti, Indonesia, Kuwait, Malaysia, Mauritania, Myanmar, Oman, Philippines, Qatar, Republic of Korea, Saudi Arabia, Singapore, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, Ukraine, United Republic of Tanzania, Viet Nam.

14. Before the vote, a statement was made by the representative of the United States of America (see A/C.3/57/SR.40).

15. Statements in explanation of vote were made before the vote by the representatives of Denmark (on behalf of the States Members of the United Nations that are members the European Union), Canada and South Africa; a statement in explanation of vote was made after the vote by the representative of Australia (see A/C.3/57/SR.40).

16. Also, at the 40th meeting, the representative of the United States of America made a statement in which he requested a recorded vote on draft resolution A/C.3/57/L.30, he also made a statement in explanation of vote (see A/C.3/57/SR.40).

17. The Committee then adopted draft resolution A/C.3/57/L.30 by a recorded vote of 104 to 8, with 37 abstentions (see para. 31, draft resolution I). The voting was as follows:

In favour:

Afghanistan, Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Indonesia, Ireland, Italy, Jordan, Kiribati, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nauru, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Kitts and Nevis, Samoa, San Marino, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela, Yugoslavia, Zambia, Zimbabwe.

Against:

China, Cuba, Israel, Japan, Nigeria, Syrian Arab Republic, United States of America, Viet Nam.

Abstaining:

Algeria, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bhutan, Brunei Darussalam, Cameroon, Egypt, Ethiopia, Georgia, Guyana, India, Jamaica, Kazakhstan, Kenya, Kuwait, Libyan Arab Jamahiriya, Malaysia, Mauritania, Myanmar, Nepal, Oman, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Singapore, Sudan, Thailand, Togo, Tunisia, United Republic of Tanzania, Uzbekistan.

18. Statements in explanation of vote were made after the vote by the representatives of Venezuela, Cuba, Thailand, Australia, Egypt, the Libyan Arab Jamahiriya, Singapore, Nepal, India and Japan (see A/C.3/57/SR.40).

B. Draft resolution A/C.3/57/L.36

19. At the 36th meeting, on 5 November, the representative of Iceland, on behalf of Afghanistan, Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Chile, the Congo, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Jordan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Malta, Mali, Mexico, Monaco, Mongolia, Mozambique, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, Portugal, the Republic of Korea, the Republic of Moldova, Romania, San Marino, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine, the United Kingdom of Great Britain and Northern Ireland, Venezuela and Yugoslavia , introduced a draft resolution entitled "Torture and other cruel, inhuman or degrading treatment or punishment" (A/C.3/57/L.36). Subsequently, Cape Verde, Ecuador, Georgia, Malawi, Mauritius and Uruguay joined in sponsoring the draft resolution.

20. At the 40th meeting, on 7 November, the Secretary of the Committee read a statement by the Director of the Programme Planning and Budget Division in connection with the draft resolution (see A/C.3/57/SR.40).

21. At the same meeting, the Committee adopted draft resolution A/C.3/57/L.36 without a vote (see para. 31, draft resolution II).

C. Draft resolution A/C.3/57/L.37

22. At the 36th meeting, on 5 November, the representative of Mexico, on behalf of Azerbaijan, Bangladesh, Bolivia, Burkina Faso, Cuba, Ecuador, Egypt, Guatemala, Mexico, Morocco, Mozambique, Namibia, Nicaragua, Nigeria, Paraguay, Peru, the Philippines, Senegal, Suriname, Tunisia, Turkey and Uruguay, introduced a draft resolution entitled "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families" (A/C.3/57/L.37). Subsequently, Cape Verde, Colombia, the Democratic Republic of the Congo, El Salvador, Honduras, Jordan, Mali and Mauritius joined in sponsoring the draft resolution.

23. At its 57th meeting, on 21 November, the Committee had before it a statement of the programme budget implications of draft resolution A/C.3/57/L.37, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.3/57/L.88).

24. At the same meeting, the representative of Mexico orally revised the first preambular paragraph of the draft resolution by replacing the words "Reaffirming once more the permanent validity of the principles and norms set forth in the basic instruments" by the words "Guided by the basic instruments"; and, at the end of the paragraph, by adding the words "and reaffirming the obligation of States to promote and protect human rights and fundamental freedoms".

25. Also at its 57th meeting, the Committee adopted draft resolution A/C.3/57/L.37, as orally revised, without a vote (see para. 31, draft resolution III).

26. After the draft resolution was adopted, a statement was made by the representative of the United States of America (see A/C.3/57/SR.57).

D. Draft resolution A/C.3/57/L.38

27. At the 36th meeting, on 5 November, the representative of Canada, on behalf of Argentina, Australia, Austria, Belgium, Benin, Bosnia and Herzegovina, Burkina Faso, Cameroon, Canada, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Ecuador, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, Romania, San Marino, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights" (A/C.3/57/L.38). Subsequently, Albania, Andorra, Bolivia, Guatemala, Japan, Jordan, Malta, Nigeria, the Republic of Moldova, Suriname and the United Republic of Tanzania joined in sponsoring the draft resolution.

28. At the same meeting, the representative of Canada orally revised the draft resolution by inserting the words "and the Division for the Advancement of Women" after the words "Office of the High Commissioner" in operative paragraph 12.

29. At the 40th meeting, on 7 November, the representative of Canada further orally revised the text by replacing the words "Calls upon" by the word "Requests" in operative paragraph 9.

30. At the same meeting, the Committee adopted draft resolution A/C.3/57/L.38, as orally revised, without a vote (see para. 31, draft resolution IV).

III. Recommendations of the Third Committee

The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The General Assembly,

Recalling article 5 of the Universal Declaration of Human Rights,[1] article 7 of the International Covenant on Civil and Political Rights,[2] the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[3] and its resolution 39/46 of 10 December 1984, by which it adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and all its subsequent relevant resolutions,

Reaffirming that freedom from torture is a right that must be protected under all circumstances,

Considering that the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the early adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, intended to establish a preventive system of regular visits to places of detention,

Welcoming the adoption of the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment by the Commission on Human Rights in its resolution 2002/33 of 22 April 2002[4] and by the Economic and Social Council in its resolution 2002/27 of 24 July 2002, in which the Council recommended to the General Assembly the adoption of the draft optional protocol,

1. *Adopts* the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to the present resolution, and requests the Secretary-General to open it for signature, ratification and accession at United Nations Headquarters in New York from 1 January 2003;

2. *Calls upon* all States that have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to sign and ratify or accede to the Optional Protocol.

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[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] Resolution 3452 (XXX), annex.

[4] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

Annex
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Preamble

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

Part I
General principles

Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.

2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and will be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.

3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.

4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

Part II
Subcommittee on Prevention

Article 5

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.

2. The members of the Subcommittee shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

5. No two members of the Subcommittee may be nationals of the same State.

6. The members of the Subcommittee shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee efficiently.

Article 6

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.

2. (a) The nominees shall have the nationality of a State Party to the present Protocol;

(b) At least one of the two candidates shall have the nationality of the nominating State Party;

(c) No more than two nationals of a State Party shall be nominated;

(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.

3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

Article 7

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee by secret ballot;

(d) Elections of the members of the Subcommittee shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

Article 8

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

Article 9

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

Article 10

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.

2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:

(a) Half the members plus one shall constitute a quorum;

(b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;

(c) The Subcommittee on Prevention shall meet in camera.

3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee shall meet at such times as shall be provided by its rules of procedure. The Subcommittee

on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

Part III
Mandate of the Subcommittee on Prevention

Article 11

The Subcommittee on Prevention shall:

(a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(b) In regard to the national preventive mechanisms:

(i) Advise and assist States Parties, when necessary, in their establishment;

(ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;

(iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

Article 12

In order to enable the Subcommittee on Prevention to comply with its mandate as laid out in article 11, the States Parties undertake:

(a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;

(b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;

(d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

Article 14

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:

(a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

Article 16

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the Subcommittee's recommendations, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee.

Part IV
National preventive mechanisms

Article 17

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

(a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture, cruel, inhuman or degrading treatment or punishment;

(b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

(c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

(a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;

(e) The liberty to choose the places they want to visit and the persons they want to interview;

(f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

Part V
Declaration

Article 24

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations either under part III or under part IV of the present Protocol.

2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

Part VI
Financial provisions

Article 25

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.

2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee under the present Protocol.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.

2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

Part VII
Final provisions

Article 27

1. The present Protocol is open for signature by any State that has signed the Convention.

2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to

authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date at which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

Article 35

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of

the Convention on Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

(a) Respect the laws and regulations of the visited State;

(b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Draft resolution II
Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Recalling article 5 of the Universal Declaration of Human Rights,[5] article 7 of the International Covenant on Civil and Political Rights,[6] the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[7] and its resolution 39/46 of 10 December 1984, by which it adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling also that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of internal or international disturbance or armed conflict, and that the prohibition of torture is explicitly affirmed in all relevant international instruments,

Recalling further all previous resolutions or decisions on torture and other cruel, inhuman or degrading treatment or punishment of the General Assembly, the Economic and Social Council and the Commission on Human Rights, in particular Assembly resolution 56/143 of 19 December 2001 and Commission resolution 2002/38,[8]

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[5] Resolution 217 A (III).

[6] See resolution 2200 A (XXI), annex.

[7] Resolution 3452 (XXX), annex.

[8] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

Recalling the recommendation contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993[9] that high priority should be given to providing the necessary resources to assist victims of torture and effective remedies for their physical, psychological and social rehabilitation, inter alia, through additional contributions to the United Nations Voluntary Fund for Victims of Torture,

Noting with satisfaction the existence of a considerable international network of centres for the rehabilitation of victims of torture, which plays an important role in providing assistance to victims of torture, and the collaboration of the Fund with the centres,

Commending the persistent efforts by non-governmental organizations to combat torture and to alleviate the suffering of victims of torture,

Mindful of its proclamation, in its resolution 52/149 of 12 December 1997, of 26 June as the United Nations International Day in Support of Victims of Torture,

1. *Condemns* all forms of torture, including through intimidation, as described in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;[10]

2. *Urges* all Governments to promote the full implementation of the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights on 25 June 1993,[9] stresses in particular that all allegations of torture or other cruel, inhuman or degrading treatment or punishment should be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and that national legal systems should ensure that the victims of such acts obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, and encourages the development of rehabilitation centres for victims of torture;

3. *Takes note* of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment annexed to its resolution 55/89 of 4 December 2000 as a useful tool in efforts to combat torture;

4. *Urges* Governments to take effective measures to provide redress and to prevent torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations;

5. *Stresses* that, under article 4 of the Convention, torture must be made an offence under domestic criminal law, and emphasizes that acts of torture are serious violations of international humanitarian law and that the perpetrators are liable to prosecution and punishment;

6. *Notes with appreciation* that one hundred and thirty-one States have become parties to the Convention, and urges all States that have not yet done so to become parties to the Convention as a matter of priority;

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[9] A/CONF.157/24 (Part I), chap. III.

[10] Resolution 39/46, annex.

7. *Invites* all States ratifying or acceding to the Convention and those States that are parties to the Convention and have not yet done so to consider joining the States parties that have already made the declarations provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20;

8. *Urges* all States parties to the Convention to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

9. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

10. *Emphasizes* the obligation of States parties under article 10 of the Convention to ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

11. *Stresses*, in this context, that States must not punish personnel referred to in paragraph 10 above for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

12. *Calls upon* all Governments to take appropriate effective legislative, administrative, judicial or other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

13. *Welcomes* the work of the Committee against Torture and the report of the Committee,[11] submitted in accordance with article 24 of the Convention;

14. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with his mandate established in General Assembly resolution 48/141 of 20 December 1993, to continue to provide, at the request of Governments, advisory services for the preparation of national reports to the Committee and for the prevention of torture, as well as technical assistance in the development, production and distribution of teaching material for this purpose;

15. *Urges* States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports;

16. *Takes note with appreciation* of the interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment,[12] describing the overall trends and developments with regard to his mandate, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture;

17. *Invites* the Special Rapporteur to continue to examine questions of torture and other cruel, inhuman or degrading treatment or punishment directed against women, and conditions conducive to such torture, and to make appropriate

[11] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 44* (A/57/44).

recommendations for the prevention and redress of gender-specific forms of torture, including rape or any other form of sexual violence, and to exchange views with the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, with the aim of enhancing further their effectiveness and mutual cooperation;

18. *Also invites* the Special Rapporteur to continue to consider questions relating to the torture of children and conditions conducive to such torture and other cruel, inhuman or degrading treatment or punishment and to make appropriate recommendations for the prevention of such torture;

19. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to respond appropriately and expeditiously to his urgent appeals and to give serious consideration to requests by the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur in following up his recommendations;

20. *Reiterates* the need for the Special Rapporteur to be able to respond effectively, in particular to urgent appeals, to credible and reliable information that comes before him, and invites the Special Rapporteur to continue to seek the views and comments of all concerned, in particular Member States;

21. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by Governments to his recommendations, visits and communications, including progress made and problems encountered;

22. *Stresses* the need for the continued regular exchange of views among the Committee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with a view to enhancing further their effectiveness and cooperation on issues relating to torture, inter alia, by improving their coordination;

23. *Expresses its gratitude and appreciation* to the Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;[13]

24. *Stresses* the importance of the work of the Board of Trustees of the Fund, and appeals to all Governments and organizations to contribute annually to the Fund, preferably by 1 March before the annual meeting of the Board, if possible with a substantial increase in the level of contributions, so that consideration may be given to the ever-increasing demand for assistance;

25. *Requests* the Secretary-General to transmit to all Governments the appeals of the General Assembly for contributions to the Fund and to continue to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

26. *Also requests* the Secretary-General to assist the Board of Trustees of the Fund in its appeal for contributions and in its efforts to make better known the existence of the Fund and the financial means currently available to it, as well as in

[12] See A/57/173.

[13] See A/57/268.

its assessment of the global need for international funding of rehabilitation services for victims of torture and, in this effort, to make use of all existing possibilities, including the preparation, production and dissemination of information materials;

27. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in combating torture and assisting victims of torture, commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture;

28. *Invites* donor countries and recipient countries to consider including in their bilateral programmes and projects relating to the training of armed forces, security forces, prison and police personnel and health-care personnel, matters relating to the protection of human rights and the prevention of torture, while bearing in mind a gender perspective;

29. *Requests* the Secretary-General to submit to the Commission on Human Rights at its fifty-ninth session and to the General Assembly at its fifty-eighth session a report on the status of the Convention and a report on the operations of the Fund;

30. *Calls upon* all Governments, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

31. *Decides* to consider at its fifty-eighth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture, the report of the Committee against Torture and the interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture.

Draft resolution III
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The General Assembly,

Guided by the basic instruments regarding the international protection of human rights, in particular the Universal Declaration of Human Rights,[14] the International Covenants on Human Rights,[15] the International Convention on the Elimination of All Forms of Racial Discrimination,[16] the Convention on the Elimination of All Forms of Discrimination against Women[17] and the Convention on the Rights of the Child,[18] and reaffirming the obligation of States to promote and protect human rights and fundamental freedoms,

Bearing in mind the principles and norms established within the framework of the International Labour Organization and the importance of the work done in

[14] Resolution 217 A (III).
[15] Resolution 2200 A (XXI), annex.
[16] Resolution 2106 A (XX), annex.
[17] Resolution 34/180, annex.

connection with migrant workers and members of their families in other specialized agencies and in various organs of the United Nations,

Recalling that, despite the existence of an already established body of principles and norms, there is an urgent need to make further efforts worldwide to improve the situation and to guarantee respect for the human rights and dignity of all migrant workers and members of their families,

Conscious of the marked increase in migratory movements that has occurred, especially in certain parts of the world,

Deeply concerned at the grave situation of vulnerability of migrant workers and members of their families,

Considering that, in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[19] all States are urged to guarantee the protection of the human rights of all migrant workers and members of their families,

Underlining the importance of the creation and promotion of conditions to foster greater harmony and tolerance between migrant workers and the rest of the society of the State in which they reside, with the aim of eliminating the growing manifestations of racism and xenophobia directed against migrant workers by individuals or groups in segments of many societies,

Recalling its resolution 45/158 of 18 December 1990, by which it adopted and opened for signature, ratification and accession the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Bearing in mind that, in the Vienna Declaration and Programme of Action, States are invited to consider the possibility of signing and ratifying the Convention at the earliest possible time,

1. *Expresses its deep concern* at the growing manifestations of racism, xenophobia and other forms of discrimination and inhuman or degrading treatment directed against migrant workers in various parts of the world;

2. *Welcomes* the signature or ratification of or accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[20] by some States, and takes note of the report of the Secretary-General on the status of the Convention;[21]

3. *Calls again upon* all Member States that have not yet ratified the Convention to consider urgently signing and ratifying or acceding to it as a matter of priority, expresses the hope that it will enter into force at an early date, and in particular takes into account the fact that, pursuant to article 87 of the Convention, only one more ratification or accession is needed for it to enter into force;

4. *Requests* the Secretary-General to make all necessary provisions for the timely establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families referred to in article 72 of the

[18] Resolution 44/25, annex.
[19] A/CONF.157/24 (Part I), chap. III.
[20] Resolution 45/158, annex.
[21] A/57/291.

Convention, as soon as the Convention enters into force, and calls upon States parties to submit their first periodic reports in due time;

5. *Also requests* the Secretary-General to provide all the facilities and assistance necessary for the promotion of the Convention through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights;

6. *Welcomes* the increasing activities of the global campaign for the entry into force of the Convention, and invites the organizations and bodies of the United Nations system and intergovernmental and non-governmental organizations to intensify further their efforts with a view to disseminating information on and promoting understanding of the importance of the Convention;

7. *Also welcomes* the work of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants in relation to the Convention, and encourages her to persevere in this endeavour;

8. *Requests* the Secretary-General to submit an updated report on the status of the Convention to the General Assembly at its fifty-eighth session;

9. *Decides* to consider the report of the Secretary-General at its fifty-eighth session under the sub-item entitled "Implementation of human rights instruments".

Draft resolution IV
Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

The General Assembly,

Recalling its resolution 55/90 of 4 December 2000, as well as other relevant resolutions, and taking note of Commission on Human Rights resolution 2002/85 of 26 April 2002,[22]

Reaffirming that the full and effective implementation of United Nations human rights instruments is of major importance to the efforts of the Organization, pursuant to the Charter of the United Nations and the Universal Declaration of Human Rights,[23] to promote universal respect for and observance of human rights and fundamental freedoms,

Considering that the effective functioning of treaty bodies established pursuant to United Nations human rights instruments is indispensable for the full and effective implementation of such instruments,

Reaffirming the contribution of the human rights treaty bodies, within their mandates, to the prevention of violations of human rights, in the context of their consideration of reports submitted pursuant to their respective treaties,

Reiterating its concern about the lack of adequate resources, which impedes the effective functioning of the treaty bodies,

[22] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

[23] Resolution 217 A (III).

Recalling that the effectiveness of the treaty bodies in encouraging the realization by States parties of their obligations under United Nations human rights instruments requires constructive dialogue aimed at assisting States parties in identifying solutions to human rights problems, which should be based on the reporting process supplemented by information from all relevant sources, which should be made available to with all interested parties,

Recalling also the initiatives taken by a number of human rights treaty bodies to elaborate early warning measures and urgent procedures, within their mandates, with a view to preventing the occurrence or recurrence of serious human rights violations,

Reaffirming its responsibility for the effective functioning of human rights treaty bodies, and reaffirming also the importance of:

(*a*) Promoting the effective functioning of the periodic reporting by States parties to those instruments,

(*b*) Securing sufficient financial, human and information resources for the Office of the United Nations High Commissioner for Human Rights to enable the human rights treaty bodies to carry out their mandates effectively, including in regard to their ability to work in the applicable working languages,

(*c*) Promoting greater efficiency and effectiveness through better coordination of the activities of the United Nations bodies active in the field of human rights, taking into account the need to avoid unnecessary duplication and overlapping of their mandates and tasks,

(*d*) Addressing questions of reporting obligations and financial implications when elaborating any further instruments on human rights,

1. *Takes note with appreciation* of the report of the Secretary-General[24] and the reports of the persons chairing the human rights treaty bodies on their thirteenth and fourteenth meetings,[25] held at Geneva in June 2001 and June 2002 respectively, and also takes note of the conclusions and recommendations contained in the reports;

2. *Encourages* each treaty body to continue to give careful consideration to the relevant conclusions and recommendations contained in the reports of the chairpersons on the meetings of the human rights treaty bodies, and, in this context, encourages enhanced cooperation and coordination among the human rights treaty bodies;

3. *Welcomes* the holding of the first inter-committee meeting of the human rights treaty bodies, from 26 to 28 June 2002, to discuss issues of common concern, including issues relating to the methods of work of the treaty bodies, and encourages those bodies to continue this practice in future on an annual basis;

4. *Encourages* the persons chairing the human rights treaty bodies to continue to invite representatives of States parties to participate in a dialogue within the framework of their meetings, and welcomes broad participation by States parties in the dialogue;

[24] A/57/476.

[25] See A/57/56 and A/57/399.

5. *Emphasizes* the need to ensure financing and adequate staff and information resources for the operations of the human rights treaty bodies, particularly in view of the additional demands placed on the system by the new reporting requirements and the increasing number of ratifications and, with this in mind:

(*a*) Reiterates its request that the Secretary-General provide adequate resources in respect of each human rights treaty body, while making the most efficient use of existing resources, in order to give the treaty bodies adequate administrative support and better access to technical expertise and relevant information;

(*b*) Calls upon the Secretary-General to seek, in the next biennium, the resources within the regular budget of the United Nations necessary to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information;

(*c*) Welcomes the plans of action prepared by the United Nations High Commissioner for Human Rights to enhance the resources available to all the human rights treaty bodies and thereby strengthen the implementation of the human rights treaties, and encourages all Governments, United Nations bodies and specialized agencies, non-governmental organizations and interested persons to consider contributing to the appeal for extrabudgetary resources for the treaty bodies made by the High Commissioner until the regular budget funding meets their needs;

6. *Takes note* of the measures taken by each of the human rights treaty bodies to improve their functioning, as reflected in their respective annual reports, and encourages continuing efforts by the treaty bodies, with the assistance of the Secretary-General, to help States parties to improve their ability to meet their reporting obligations;

7. *Welcomes* the efforts by the human rights treaty bodies and the States parties, with the assistance of the Secretary-General and the High Commissioner, to improve the effectiveness of the treaty body system, and encourages them to continue to examine ways of further improving its effectiveness, inter alia, by streamlining and otherwise improving reporting procedures;

8. *Also welcomes* the initiative taken by certain treaty bodies to set page limitations for the initial and periodic reports of States parties, and encourages other treaty bodies to consider setting page limitations;

9. *Requests* each State party to update its core document, incorporating as necessary material common to its multiple reports to the treaty bodies;

10. *Commends* the recent efforts by the treaty bodies, with the assistance of the Office of the High Commissioner, to improve the petition system and to reduce the backlog;

11. *Reiterates* that a priority of the Office of the High Commissioner should be to provide assistance to States parties, upon their request and, if possible, in coordination with other United Nations bodies, Governments and other interested parties, in order:

(*a*) To assist those States in the process of ratifying United Nations human rights instruments;

(*b*) To assist States to implement their obligations under such instruments, including the preparation of their initial reports;

12. *Calls upon* the Office of the High Commissioner and the Division for the Advancement of Women to enhance awareness of the availability of technical assistance for States parties;

13. *Welcomes*, in this respect, the first regional pilot workshop for dialogue on the concluding observations of the Human Rights Committee, held at Quito from 27 to 29 August 2002;

14. *Encourages* the human rights treaty bodies and the Office of the High Commissioner to continue to identify specific possibilities for technical assistance, to be provided at the request of the State concerned, in the regular course of their work of reviewing the periodic reports of States parties, and encourages States parties to consider carefully the concluding observations of the treaty bodies in identifying their needs for technical assistance;

15. *Invites* States parties that have not yet submitted their initial reports pursuant to United Nations human rights instruments to avail themselves, where necessary, of technical assistance for this purpose;

16. *Welcomes* the efforts to eliminate the backlog of reports on the implementation by States parties of United Nations instruments on human rights and the progress made in ensuring timely consideration of reports of the human rights treaty bodies;

17. *Reiterates its concern* about the large number of overdue reports on the implementation by States parties of certain United Nations instruments on human rights, and:

(*a*) Urges States parties to make every effort to meet their reporting obligations;

(*b*) Welcomes the efforts made by certain human rights treaty bodies to consider the situations of some States parties with overdue reports;

(*c*) Welcomes new initiatives by certain treaty bodies to actively follow up concluding observations and comments with States parties, including through the appointment of one of their members as rapporteur for follow-up;

18. *Urges* each State party whose report has been examined by a human rights treaty body to translate, publish and make available in its territory the full text of the concluding observations and comments of the treaty body on its report and to provide adequate follow-up to those observations;

19. *Welcomes* the contribution to the work of the human rights treaty bodies made by the specialized agencies and other United Nations bodies, and encourages the specialized agencies and other United Nations bodies, the various organs of the Commission on Human Rights, including its special procedures, the Subcommission on the Promotion and Protection of Human Rights, the Office of the High Commissioner and the chairpersons of the human rights treaty bodies to continue to explore specific measures to intensify this cooperation among themselves and to improve communication and information flow so as to improve further the quality of their work, including by avoiding unnecessary duplication;

20. *Recognizes* the important role played by non-governmental organizations in all parts of the world in the effective implementation of all human rights instruments, and encourages the exchange of information between the human rights treaty bodies and such organizations;

21. *Recalls*, with regard to the election of the members of the human rights treaty bodies, the importance of giving consideration to equitable geographical distribution and gender balance of the membership and to the representation of the principal legal systems and of bearing in mind that the members shall be elected and shall serve in their personal capacity and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights, and encourages States parties, individually and through meetings of States parties, to consider how better to give effect to these principles;

22. *Encourages* the efforts of the treaty bodies to monitor more effectively the human rights of women, bearing in mind the workshops on gender integration, and reaffirms that it is the responsibility of all treaty bodies to integrate a gender perspective into their work;

23. *Requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session the reports of the persons chairing the human rights treaty bodies on their periodic meetings, and to report to it at the same session on measures taken to implement the present resolution and obstacles to its implementation, on measures to encourage technical cooperation and on measures taken or planned to ensure financing and adequate staff and information resources for the effective operation of the human rights treaty bodies;

24. *Decides* to consider this question on a priority basis at its fifty-ninth session under the item entitled "Human rights questions".